

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

No. 6:09-CR-060771-014L
**STATEMENT of DEFENDANT
WITH RESPECT TO
SENTENCING FACTORS
AND MOTION FOR A
NONGUIDELINES SENTENCE**

RODERICK STANLEY,

Defendant.

The Defendant, Roderick Stanley by and through his attorney, Joseph S. Damelio, Esq., adopts the findings of the Pre-Sentence Investigation Report dated August 22, 2011, and revised on September 19, 2011, as prepared by, Kerry J. Chartier, U.S. Probation Officer with one exception:

1. The PSR, at paragraph "27", states that Defendant assisted co-defendant Gunter in arranging for the smuggling of large quantities of ecstasy tablets from Ontario Canada for subsequent distribution throughout the Rochester area. Defendant objects to this statement, even as offered as historical information, as there is no evidence Defendant was involved in smuggling ecstasy. Defendant certainly did not plea to any counts involving ecstasy possession, possession with the intent to distribute, or conspiracy to possess with the intent to distribute ecstasy.

NONGUIDELINES SENTENCE

1. Paragraph "13" of the PSR states that the "defendant reserves the right to recommend a sentence outside the Sentencing Guidelines range and the Government reserves the right to oppose this motion". Defendant prays that the Court, when considering all of the facts and circumstances of this case, will sentence him to a term less than the Guidelines and the Rule 12(c) (1)(c) plea terms in the interest of justice.

2. The Defendant accepted full responsibility to the Court and the Government at the time of the allocution of his plea, and did so during the PSR interview with Officer Chartier.

3. He has no prior criminal record and has acknowledged the error his way, as he has seen firsthand how his actions have adversely affected the lives of his family and those closes to him.

4. Defendant asks that the Court consider a non-guidelines sentence as he has been in custody, in local jails, since June 4, 2009, over 2 ½ years. This means that he has not breathed fresh air or felt sunlight in 30 months, except for those times he is transported to court.

5. Defendant is a performer of reggae music by trade. The songs that he writes are positive in nature and do not reflect the drug culture or thug life that seems to be so popular today. His message, although he is incarcerated, calls on family, friends and happiness. It embraces his proud heritage, rather than referring to the sublime message of the counterculture.

6. Defendant recognizes that his conviction will have consequences with regard to his immigration status and he is prepared to be deported.

7. Defendant requests that the Court recommend his enrollment in the B.O.P. Drug Treatment Program if eligible, and that Defendant be placed in a B.O.P. facility closest to the Rochester area.

DATED: November 27, 2011

Respectfully submitted,

/s/ Joseph S. Damelio, Esq.

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UNITED STATES OF AMERICA,

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RODERICK STANLEY

Defendant.

CERTIFICATE OF SERVICE

I, Joseph S. Damelio, Esq. hereby certify that on November 27, 2011, I electronically filed the foregoing Statement of The Defendant And Motion For A Nonguidelines Sentence in the above action with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the CM/EDF participants in this case.

/S/ Joseph S. Damelio
Joseph S. Damelio